

AMENDED IN SENATE MAY 9, 2005
AMENDED IN SENATE APRIL 20, 2005
AMENDED IN SENATE FEBRUARY 23, 2005

SENATE BILL

No. 44

Introduced by Senator Kehoe

January 4, 2005

An act to amend Section 65302.1 of the Government Code, relating to general plans.

LEGISLATIVE COUNSEL'S DIGEST

SB 44, as amended, Kehoe. General plans: air quality element.

Existing law requires the legislative body of each county and city to adopt a comprehensive, long-term general plan for the physical development of the county or city, and of any land outside its boundaries that bears relation to its planning. The law requires the plan to include a specified land use element that designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, and other categories of public and private uses of land. Existing law specifically requires the legislative body of each city and county within the jurisdictional boundaries of the San Joaquin Valley Air Pollution Control District to amend appropriate elements of its general plan to include specified information to improve air quality, including a report describing local air quality conditions.

This bill would make a legislative finding that air pollution is a serious problem in this state. The bill would require the legislative body of each city and county, ~~including those in the San Joaquin Valley Air Pollution Control District,~~ *located in specified areas* to either adopt an air quality element as part of its general plan, *as*

specified, or amend the appropriate elements of its general plan to include data and analysis, comprehensive goals, policies, and feasible implementation strategies intended to contribute to and complement other local, regional, state, and federal strategies to improve air quality no later than one year from the date specified for the next revision of its housing element *that occurs after January 1, 2007*. The bill would require ~~that the report be based on information provided by the air pollution control district or air quality management district in which the city or county is located~~ *all other cities and counties to comply with these provisions, as specified, during their next general plan update but no later than the date specified for the 5th revision of their housing element that occurs after January 1, 2007.*

The bill would also require each city and county, at least 45 days prior to the adoption of an air quality element or the amendment of a general plan, to send a copy of the draft document to the air quality management district or air pollution control district in which it is located for review, comment, and recommendations, as specified. A city or county that adopts an air quality element or amendments to its general plan prior to January 1, 2007, shall be deemed to have met the requirements of the bill, if the city or county makes a specified written finding. By increasing the duties of local public officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 65302.1 of the Government Code is
- 2 amended to read:
- 3 65302.1. (a) The Legislature finds and declares all of the
- 4 following:
- 5 (1) That California has a serious air pollution problem that is
- 6 the result of many factors, including pollution from both mobile
- 7 and stationary sources. The ongoing problem of air pollution has

1 had a significant impact on public health. According to the
2 California Air Resources Board, over 90 percent of Californians
3 breathe unhealthy levels of one or more air pollutants during
4 some part of the year. The health effects of some of these
5 common pollutants include respiratory disease, lung damage,
6 premature deaths, cancer, reduced mental alertness, neurological
7 and reproductive disorders, chronic eye, lung, or skin irritation,
8 chest pain, headaches, and nausea. In addition, air pollution can
9 and does have a serious impact on California's economy and can
10 result in the loss of federal funding for transportation projects
11 important to a thriving state economy. Solving this problem
12 requires the cooperation of land use and transportation planning
13 agencies, transit operators, the business and development
14 communities, air quality management districts, air pollution
15 control districts, and the public.

16 (2) The regulation of air quality is generally the responsibility
17 of regional, state, and federal agencies who, through their efforts
18 and responsibility to establish and enforce policies such as auto
19 emission standards and permits, require the best available control
20 technology on stationary sources.

21 (3) Many of the sources of air pollution are a result of actions,
22 uses, and sources over which cities and counties have no control.
23 These include, but are not limited to, the following:

24 (A) Air pollutants transported from other communities or other
25 air basins.

26 (B) State or federal highways.

27 (C) Emissions from powerplants and other large stationary
28 sources that are regional in nature and which are regulated by
29 state or federal agencies.

30 (D) Emissions from railroads, ports, airports, and other
31 federally regulated sources.

32 (E) Emissions from stationary sources, which are regulated by
33 local air pollution control districts and air quality management
34 districts.

35 (F) Existing land use and transportation patterns.

36 (G) Emissions from mobile sources, whose emission standards
37 are regulated by the state and federal governments.

38 (H) Pollutants generated by agricultural activity.

39 (4) The Legislature recognizes that, in making local planning
40 and land use decisions, cities and counties must balance air

1 quality with other state and local policies and priorities, such as
2 promoting housing development, the protection and conservation
3 of farmland, natural resources, and open space, the avoidance of
4 natural hazards, the promotion of job growth and economic
5 development, and other issues of local, regional, and statewide
6 importance.

7 (5) The Legislature further recognizes that, in making local
8 planning and land use decisions, cities and counties should adopt
9 policies and strategies to improve air quality in their
10 communities. These policies and strategies may include, where
11 feasible, encouraging infill development and efficient
12 development patterns by ensuring all of the following:

13 (A) That any infrastructure associated with development that
14 is not infill supports new development that uses land efficiently.

15 (B) That the development is built adjacent to existing
16 developed areas to the extent consistent with state planning
17 priorities to protect environmental and agricultural resources.

18 (C) That the development is located in an area appropriately
19 planned for growth.

20 (D) That the development is served by adequate transportation
21 and other essential utilities and services.

22 (E) That the development minimizes ongoing costs to
23 taxpayers.

24 (b) The legislative body of each city and county shall either
25 adopt an air quality element as part of its general plan or amend
26 the appropriate elements of its general plan, which may include,
27 but are not limited to, the required elements dealing with land
28 use, circulation, housing, conservation, and open space, to
29 include data and analyses, goals, policies, and objectives, and
30 feasible implementation strategies intended to contribute to and
31 complement other local, regional, state, and federal strategies to
32 improve air quality.

33 (c) The adoption of an air quality element or the amendment
34 of a general plan to comply with the requirements of subdivision
35 (b) shall include all of the following:

36 (1) A report describing local air quality conditions including
37 air quality monitoring data, emission inventories, lists of
38 significant source categories, attainment status and designations,
39 and applicable state and federal air quality plans and
40 transportation plans. This report shall include a summary of

1 local, district, state, and federal policies, programs, and
2 regulations that may improve air quality in the city or county.
3 The city or county shall base this report on information provided
4 to the city or county by the air pollution control district or air
5 quality management district in which the city or county is
6 located.

7 (2) A comprehensive set of goals, policies, and objectives that
8 contribute to and complement other federal, state, regional, and
9 local strategies to improve air quality.

10 (3) A set of feasible implementation measures designed to
11 carry out those goals, policies, and objectives.

12 (d) The adoption of an air quality element or the amendment
13 of a general plan to comply with the requirements of subdivision
14 (g) shall not prohibit cities and counties from encouraging the
15 phasing in of a development, comprehensive planning, or a
16 mixed-use development, including residential developments near
17 transit centers to reduce traffic congestion and provide housing
18 near these transit centers.

19 (e) At least 45 days prior to the adoption of an air quality
20 element or the amendment of a general plan pursuant to this
21 section, each city and county shall send a copy of its draft
22 document to the air quality management district or air pollution
23 control district in which the city or county is located. The district
24 may review the draft elements or draft amendments to determine
25 whether they will contribute to improved air quality in the
26 planning area. Within 30 days of receiving the draft elements or
27 draft amendments, the district shall send any comments and
28 recommendations to the city or county. The legislative body of
29 the city or county shall consider the district's comments and
30 recommendations prior to the final adoption of air quality
31 amendments to the general plan. If the district's comments and
32 recommendations are not available by the time scheduled for the
33 final adoption of the air quality element or amendments to the
34 general plan, the legislative body of the city or county may act
35 without them. The district's comments and recommendations
36 shall be advisory to the city or county.

37 (f) (1) The legislative body of each city and county within the
38 jurisdictional boundaries of the San Joaquin Valley Air Pollution
39 Control District shall comply with this section no later than one

1 year from the date specified in Section 65588 for the next
2 revision of its housing element that occurs after January 1, 2004.

3 (2) The legislative bodies of ~~all other cities and counties~~ the
4 *cities and counties located within the Sacramento Valley Air*
5 *Basin, the San Francisco Bay Area Air Basin, the South Central*
6 *Coast Air Basin, the South Coast Air Basin, the San Diego Air*
7 *Basin, and the Salton Sea Air Basin as designated by the*
8 *California Air Resources Board,* shall comply with this section
9 no later than one year from the date specified in Section 65588
10 for the next revision of its housing element that occurs after
11 January 1, 2007.

12 (3) *The legislative bodies of all other cities and counties shall*
13 *comply with this section during their next general plan update,*
14 *but no later than one year from the date specified in Section*
15 *65588 for the fifth revision of its housing element that occurs*
16 *after January 1, 2007. These local agencies, in consultation with*
17 *their local air districts, shall only be required to address those*
18 *nonattainment criteria pollutants attributed to sources within*
19 *their jurisdiction in a manner relative to their air quality*
20 *problem as identified by data and information and appropriate to*
21 *their area.*

22 (g) A city or county that has adopted an air quality element or
23 amendments to its general plan to address air quality, prior to
24 January 1, 2007, shall be deemed to have met the requirements of
25 this section if the city or county makes a written finding that the
26 element or amendments have addressed local air quality issues
27 that are substantially consistent with the objectives of this
28 section.

29 (h) The Legislature does not intend that cities and counties, in
30 implementing this section, duplicate actions that are the
31 responsibility of the air quality management districts, air
32 pollution control districts, or metropolitan planning
33 organizations.

34 SEC. 2. Nothing in this act shall be interpreted to expand the
35 application of the California Environmental Quality Act
36 (Division 13 (commencing with Section 21000) of the Public
37 Resources Code), the existing authorities of the affected local
38 governments, or any air quality management district or air
39 pollution control district.

1 SEC. 3. The Legislature finds and declares that Sections
2 65104 and 66014 of the Government Code provide local agencies
3 with authority to levy fees sufficient to pay for the program or
4 level of service mandated by this act.

5 SEC. 4. No reimbursement is required by this act pursuant to
6 Section 6 of Article XIII B of the California Constitution because
7 a local agency or school district has the authority to levy service
8 charges, fees, or assessments sufficient to pay for the program or
9 level of service mandated by this act, within the meaning of
10 Section 17556 of the Government Code.